

JUN 20 1973

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# PROCLAMATION

BY THE

## Governor of the State of Texas

ALL TO WHOM THESE PRESENTS SHALL COME:

June 16, 1973

As provided under the provisions of Section 14, Article IV of the Constitution of the State of Texas, I disapprove of S. B. 209 and am filing same with the Secretary of State setting forth the following objections:

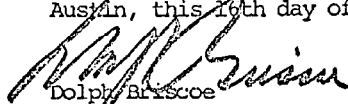
S. B. 209 codifies in part the rule in Nevels v. Harris, 129 Tex. 190, 102 SW 2d 1046 (1937) and the ensuing decision of the United States Court of Appeals for the Fifth Circuit in Imperial Corporation of America v. Frenchman's Creek Corporation, et al, 453 Fed. 2d 1338 (1972). In addition, it permits the charge of additional interest to individuals borrowing over \$500,000.00 upon the security of a first lien real estate mortgage and provides a formula for returning to the borrower of over-usury interest upon early payment of loans.

Questions, however, have arisen relating to the treatment of discounts and the consequent determination of the amount of "the loan" under the language of the bill together with questions whether the bill does or does not change the currently effective penalty for usury. Also, there is recognizable ambiguity as to who may qualify as "an individual" under the provision relating to first lien real estate loans over \$500,000.00.

Were the bill in an area less critical to the financial life of the state, I would be constrained to a clarification by the courts over a period of years. S. B. 209, however, deals with a subject so vital both to lending institutions and to borrowers, that I believe it is wise to await a more carefully drawn codification.

S. B. 209 was received in the Governor's Office less than ten (10) days prior to the adjournment of the regular session of the Sixty-third Legislature, and in accordance with the Constitution of the State of Texas, this bill, together with this Proclamation, is filed with the Secretary of State.

IN TESTIMONY WHEREOF, I  
have hereunto signed my name  
officially and caused the seal of  
the State to be affixed hereto at  
Austin, this 16th day of June, 1973.

  
Dolph Briscoe  
Governor of Texas

Secretary of State